

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

MISC. CIVIL APPLN.(CONTEMPT PETITION) No 97 of 1996

in

SPECIAL CIVIL APPLICATION No 8257 of 1991

For Approval and Signature:

Hon'ble MR.JUSTICE R.K.ABICHANDANI and
MR.JUSTICE D.H.WAGHELA

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1. Whether Reporters of Local Papers may be allowed : NO
to see the judgements?
 2. To be referred to the Reporter or not? : NO
 3. Whether Their Lordships wish to see the fair copy : NO
of the judgement?
 4. Whether this case involves a substantial question : NO
of law as to the interpretation of the Constitution
of India, 1950 of any Order made thereunder?
 5. Whether it is to be circulated to the Civil Judge? : NO

STATE OF GUJARAT

Versus

NEW SHIVSHAKTI VIJAY SAW MILL

Appearance:

Mr. B.Y.Mankad, for Petitioners
MR RK MISHRA for Respondent No. 1

CORAM : MR.JUSTICE R.K.ABICHANDANI and
MR.JUSTICE D.H.WAGHELA

Date of decision: 18/11/1999

ORAL JUDGEMENT

#. The applicants have prayed for taking appropriate

action against the respondent for breach of order dtd.4.3.92 by which the parties were directed to maintain status-quo with regard to the land in dispute. The land in dispute was the excess vacant land admeasuring 602 Sq.Mtrs. as per the order which was challenged in the main petition. The interim order was granted on 4.3.92. According to the opponent the construction in question was in existence prior to the making of that order. There is some confusion about the land on which the construction stands. The opponent was allowed to retain 1,000 Sq.Mtrs of land and some of the construction which is complained of against appears to be on the land which was allowed to be retained by the opponent. The contempt application has been preferred on 12.3.96, more than 4 years after the injunction order was made. Therefore, we do not find any ground for holding the opponent guilty of breach of the interim order. However, on 3.2.97 the court had in this application noted conflict between the affidavit-in-reply dtd.28.1.97 and affidavit dtd.22.3.96 and observed that apart from the contempt that could be taken on this application a separate notice should be issued on the deponent who has sworn these affidavits to show cause as to why direction for prosecuting him for perjury should not be issued in view of the conflicting affidavits filed by him. Therefore, while disposing of the application and so far as the relief of taking action on the ground of breach of the interim order, by holding that such action is not warranted, we direct that the copy of our order dtd.3.2.97 passed in this application be placed in the main petition, i.e. Special Civil Application No.8257/91 for appropriate consideration by the Hon'ble Court while deciding that petition. Rule is discharged with no order as to costs, subject to this direction, office will place the main petition before the appropriate court for hearing.

kks